

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA,

Case No. 3:11-cr-00283-BR-1

ORDER

v.

DARRYL JAMES SWANSON,

Defendant.

BROWN, Judge.

On August 12, 2011, this Court entered an Order finding Defendant mentally incompetent under 18 U.S.C. § 4241 and committing him to the custody of the Attorney General for hospitalization and treatment for a period not to exceed four months. Defendant is currently confined at the Multnomah County Detention Center pending transfer to a suitable facility. While incarcerated at the Multnomah County Detention Center, Defendant has mailed several letters to the Court which contain threatening

statements directed to the undersigned and other Court personnel involved in Defendants' criminal proceeding.

As a general rule, prisoners retain those First Amendment rights not inconsistent with their status as prisoners or with legitimate penological objectives of the corrections system. *Pell v. Procunier*, 417 U.S. 817, 822 (1974). Limitations may be placed on a prisoner's outgoing mail privileges if the limitation in question (1) "furthers an important government interest unrelated to the suppression of expression," and (2) is "no greater than necessary or essential" to protect the governmental interest involved. *Procunier v. Martinez*, 416 U.S. 396, 413 (1974), overruled on other grounds by, *Thornburgh v. Abbott*, 490 U.S. 401, 413-14 (1989). Outgoing mail which might violate postal regulations, e.g., threats, blackmail, or contraband may be disallowed. *Id.* at 414, n. 14.

Because Defendant has persisted in sending threatening letters to the Court, IT IS ORDERED that Multnomah County Detention Center personnel may confiscate any outgoing mail submitted by Defendant during the period of his incarceration in the custody of the Multnomah County Sheriff which is addressed to the Court or court personnel, and may forward said mail, unopened, to Counsel for Defendant, Assistant Federal Public Defender Ellen Pitcher, at 101 S.W. Main, Suite 1700, Portland, OR 97204.

IT IS FURTHER ORDERED that the Clerk of the Court is DIRECTED

to forward to counsel for Defendant, unopened, any mail received from Defendant with a return address indicating his continuing incarceration in the custody of the Multnomah County Sheriff.

IT IS FURTHER ORDERED that the U.S. Marshal's Service shall serve a copy of this Order on the appropriate officials at the Multnomah County Detention Center.

IT IS SO ORDERED.

DATED this 30th day of August, 2011.



ANNA J. BROWN
United States District Judge